The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YU-HSUAN TSAI

Appeal No. 2005-2618
Application No. 10/060,494

ON BRIEF

Before DIXON, GROSS, and SAADAT, Administrative Patent Judges.
SAADAT, Administrative Patent Judge.

DECISION ON APPEAL AND REMAND TO THE EXAMINER

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-13, which are all of the claims pending in this application.

We reverse and remand.

BACKGROUND

Appellant's invention is directed generally to a microchip manufacturing equipment, and specifically, to an electronic data card that accompanies a wafer container. The data card includes at least one light emitter that is operable in response to a microprocessor to convey information related to the manufacturing

process and equipment. An understanding of the invention can be derived from a reading of exemplary independent claim 1, which is reproduced as follows:

1. Apparatus for visually conveying information to a human operator in a manufacturing process comprising:

a container for transporting work in progress used in the manufacturing process;

an electronic data card that follows the container through at least a portion of the manufacturing process, said electronic data card including a microcomputer and containing data related to one or more of the manufacturing process and related equipment; and

at least one light emitter associated with the electronic data card and operable in response to a set of instructions executed by said microcomputer to visually convey predetermined information directly to a human operator about one or more of the manufacturing process and related equipment.

The following reference is relied on by the Examiner:

Bonora et al. (Bonora) 5,570,990 Nov. 5, 1996

Claims 1-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bonora.

Rather than reiterate the opposing arguments, reference is made to the brief and answer for the respective positions of Appellant and the Examiner. Only those arguments actually made by Appellant have been considered in this decision. Arguments which Appellant could have made but chose not to make in the briefs have not been considered (37 CFR § 41.37(c)(1)(vii)).

OPINION

A rejection for anticipation requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. See Atlas Powder Co. v. Ireco Inc., 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Appellant acknowledges that the data card 232-1 described in Bonora has light emitters as it communicates with the communication means 236 which includes photodetectors and responds to data transmitted by light emitting diode (brief, page 12). Appellant further argues that both units have LEDs used for serial communication of data from one piece of equipment to another instead of the visual direct communication to a human operator without the use of an intermediary photodetector, as recited in claim 1 (brief, page 15).

In response, the Examiner relies on the discussion of a display in Bonora (col. 9, lines 2-11) and the teachings related to the communications means 236 (col. 8, lines 40-46) and characterizes the operator's interaction with the container

loader as the claimed visually conveying information directly to a human operator (answer, page 3). The Examiner further takes the position that since a keyboard, usable by an operator, is included, the information from the data card is communicated to the operator (answer, page 4).

After reviewing Bonora, we remain unconvinced by the Examiner's position that the disclosed data card actually conveys information visually and directly to a human operator in response to instructions executed by a microprocessor. Bonora, in all the Figures and as described in the relevant portions of the disclosure, depicts data cards that communicate with communication means installed on the equipment or the loader. For example, Figure 10 shows the data card 232-1 in close proximity of the communication means 236 for exchanging container and processing information between two equipments (col. 8, lines 37-45). The information that is eventually conveyed to the operator is through the processor and the keyboard or the display on the equipment, i.e., the mobile loader stocker 110 (figures 4 & 11; col. 9, lines 1-19). Therefore, as pointed out by Appellant, the data card of Bonora must send data through the communication means 236 to a CPU and the display of the equipment in order to convey any information to a human operator.

Claim 1 requires at least one light emitter associated with the data card to visually convey information directly to a human operator. What a reference teaches is a question of fact. In re Baird, 16 F.3d 380, 382, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994) (citing In re Beattie, 974 F.2d 1309, 1311, 24 USPQ2d 1040, 1041 (Fed. Cir. 1992)). Here, the Examiner has not pointed to any teaching in Bonora that would have conclusively established that the data card 232-1, other than communicating with the communication means 236, visually conveys any information directly to an operator. In fact, the proximity of the data card to the tracking unit on the equipment, indicates that the communication was not intended to be with the operator.

In view of the discussion above, we find that Bonora fails to teach every recited limitation recited and therefore, cannot anticipate claim 1. Claims 7 and 11 include similar limitations related to visually conveying information directly to a human operator which, as discussed above with respect to claim 1, is absent in Bonora. Accordingly, as the Examiner has failed to set forth a prima facie case of anticipation, the 35 U.S.C. § 102 rejection of independent claims 1, 7 and 11 as well as claims 2-6, 8-10, 12 and 13, dependent thereon, over Bonora cannot be sustained.

REMAND TO THE EXAMINER

Pursuant to our authority under 37 CFR § 41.50(a)(1), we remand this application to the Examiner to consider rejecting claims 1-13 over the Appellant's admitted prior art (AAPA) in The Background of Invention section (¶ 0004), alone or in combination with additional prior art.

We observe that AAPA describes a data card including a light emitter in the form of an alphanumeric liquid crystal display for displaying the stored information. An operator may request display of information related to the process and the container. We also note that although the operator has to request the information by pressing buttons and/or toggling through lines of stored data to find the desired information, nonetheless, predetermined information is visually and directly conveyed to a human operator by the at least one light emitter or the liquid crystal display.

CONCLUSION

In view of the foregoing, the decision of the Examiner to reject claims 1-13 under 35 U.S.C. § 102 is reversed. The application is remanded to the Examiner for the reasons discussed above.

REVERSED and REMANDED

JOSEPH L. DIXON
Administrative Patent Judge

ANITA PELLMAN GROSS
Administrative Patent Judge

MAHSHID D. SAADAT
Administrative Patent Judge

) BOARD OF PATENT APPEALS AND INTERFERENCES

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